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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

MICHAEL GRECCO  
PRODUCTIONS INC.,

*Plaintiff,*

v.

TIKTOK, INC.,

*Defendant.*

Case No. 2:24-CV-04837-FLA-MAR

**DEFENDANT’S OPPOSITION TO  
PLAINTIFF’S MOTION FOR  
EXTENSION OF DEADLINES**

Hon. Fernando L. Aenlle-Rocha

Date: June 6, 2025

Time: 10:30 a.m.

Courtroom: 6B

Filed concurrently with:  
Declaration of J. Michael Keyes; and  
[Proposed] Order

Defendant TikTok, Inc. (“Defendant” or “TTI”) hereby opposes the Motion for Extension of Deadlines, Dkt. 61, (the “Motion”) filed by Plaintiff Michael Grecco Productions Inc. (“Plaintiff”) on May 9, 2025. For the reasons set forth below, the Court should deny the Motion.

**INTRODUCTION**

After failing to take *any discovery at all* during the ten-month discovery period, Plaintiff—for the third time—has filed a legally and procedurally deficient Motion seeking to extend all deadlines in this case by sixty (60) days. Dkt. 61. Plaintiff’s Motion should be denied and this case should proceed as scheduled.

Plaintiff makes no attempt to show that it has acted diligently to advance this litigation. Nor could it. The close of discovery in this case was May 9, 2025 and Plaintiff failed to seek any discovery from Defendant until less than a month before the deadline. Plaintiff never sought to depose Defendant and served facially untimely written discovery requests mere weeks before the discovery cutoff. It is Plaintiff’s burden to develop and prove its case and any prejudice it now claims from its failure to do so is entirely self-inflicted and does not warrant modifying the Court’s schedule, which would include rescheduling expert discovery, summary judgment deadlines, pretrial filing deadlines, the pretrial conference, and trial.

In addition, the Court has twice stricken Plaintiff’s Motion “for failure to comply with the Court’s Local Rules, General Orders, and/or Case Management Order.” Dkt. 54; Dkt. 60. When doing so, Magistrate Judge Rocconi specifically referred Plaintiff “to the court’s Initial Standing Order . . . set by Honorable Judge Aenlle-Rocha.” Dkt. 54. Despite these warnings, Plaintiff re-filed the same non-compliant Motion. The Court’s orders are clear that any request for an extension must be supported by a “detailed declaration setting forth the reasons for the requested relief.” Scheduling Order, Dkt. 42 at 21-22; Initial Standing Order Dkt. 10 at 16-17. Plaintiff failed to submit any such declaration. The Initial Standing Order is also clear that “Counsel shall avoid submitting requests for continuance or extension of time less than five (5) business days prior to the expiration of the scheduled date.” Dkt. 10 at 17 (emphasis in original). Plaintiff’s Motion runs afoul of this requirement as well.

1 The Court should deny Plaintiff's legally unjustifiable and procedurally  
2 deficient Motion outright.

3 **RELEVANT PROCEDURAL & FACTUAL BACKGROUND**

4 Plaintiff is a photography agency owned by Michael Grecco, who purports to  
5 specialize in for-hire photography of celebrities, Dkt. 46 ¶ 6, but is also the epitome  
6 of a serial litigator. Plaintiff has in fact filed dozens of copyright infringement cases  
7 over the past several years and hundreds in the last decade. *See Michael Grecco*  
8 *Prods. Inc. v. BDG Media, Inc.*, No. CV 19-04716, 2019 U.S. Dist. LEXIS 235754,  
9 at \*7 (C.D. Cal. Nov. 21, 2019) (noting that "Plaintiff is not a traditional Plaintiff  
10 because . . . Plaintiff has filed some 81 similar lawsuits").

11 On June 7, 2024, Plaintiff filed its Complaint against TTI, alleging that certain  
12 TikTok users had posted to TikTok videos that include photographs owned and  
13 copyrighted by Plaintiff. Dkt. 1. Following amendment and Defendants' Motion to  
14 Dismiss, Plaintiff filed its Second Amended Complaint ("SAC") on April 1, 2025,  
15 which Defendant Answered on April 29, 2025. Dkt. 46; Dkt. 49.

16 On June 12, 2024, the Court issued its Initial Standing Order. Dkt. 10. On  
17 October 23, 2024, the Court issued its Scheduling Order for this case. Dkt. 42. The  
18 Scheduling Order established the deadlines that Plaintiff now seeks to extend,  
19 including: Fact Discovery Cut-Off on May 9, 2025; Expert Discovery Cut-Off on  
20 June 13, 2025; Last Day to Hear Motions on July 11, 2025; Trial Filings (first round)  
21 on September 5, 2025; Trial Filings (second round) on September 19, 2025; Final  
22 Pretrial Conference on October 3, 2025; and Trial starting on October 21, 2025. *Id.*  
23 at 4.

24 Plaintiff did not engage in *any* discovery until last month. Keyes Decl. ¶ 3.  
25 On April 15, 2025, Plaintiff served on Defendant's counsel its Initial Disclosures as  
26 well as a First Set of Interrogatories, a First Set of Requests for Production, and a  
27 First Set of Requests for Admission. *Id.* Plaintiff never served any notices of  
28 deposition. *Id.* ¶ 5.

On May 5, 2025, Plaintiff filed this Motion, improperly noticing it for a hearing with Magistrate Judge Rocconi (“First Motion”). Dkt. 50. Before Defendant could file an opposition, the First Motion was stricken and Plaintiff re-filed it on May 7 (“Second Motion”). Dkt. 54, Dkt. 55. That same day, Defendant filed an opposition to the Second Motion, pointing out several legal and procedural deficiencies with Plaintiff’s Motion including that it was not supported by a declaration as required by the Court’s rules and that Plaintiff failed to show, or even address, diligence. Dkt. 57. Plaintiff filed a reply on May 8, in which it “apologized for not including a detailed declaration with the Motion” and for the first time attempted to argue that it had been diligent and that both Defendant and Plaintiff would be prejudiced absent an extension. Dkt. 58 at 3-7. The Court struck the Second Motion on May 8 because the hearing date noticed by Plaintiff did not comply with the Local Rules. Dkt. 60 (“Hearing information is missing, incorrect, or not timely.”).

On May 9, Plaintiff filed the present Motion. The Motion is the same as the First Motion and Second Motion; Plaintiff merely corrected the hearing date and re-filed. *See* Dkt. 61. But notably absent from the Motion are (1) the “detailed declaration” required by the Court and acknowledged by Plaintiff as missing from its Second Motion, (2) the arguments Plaintiff presented in its Reply for the Second Motion, including any argument that it has acted diligently or will be prejudiced.<sup>1</sup>

## **ARGUMENT**

### **I. Applicable Law & Orders.**

The Court’s schedule “may be modified only for good cause and with the judge’s consent.” Fed. R. Civ. P. 16(b)(4); *Access Vapor, LLC v. Cal. Grown E Liquids, LLC*, No. 8:20-cv-02052-FLA, 2021 U.S. Dist. LEXIS 250441, at \*2 (C.D.

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<sup>1</sup> As explained below in Section III.C, new arguments raised for the first time in a reply brief are improper and should not be considered, both with respect to the Second Motion and in the event Plaintiff attempts the same tactic now.

1 Cal. Nov. 17, 2021). “To show good cause for a continuance, a party must provide  
2 specific, detailed, and non-conclusory reasons for granting the extension, including  
3 a showing of diligence in pursuing the litigation.” *Brooke v. Treasure Mt. Holdings*  
4 *LLC*, No. 5:20-cv-02208-FLA, 2022 U.S. Dist. LEXIS 236510, at \*3 (C.D. Cal. Apr.  
5 12, 2022). Any “prejudice to the party opposing the modification” supplies  
6 “additional reasons to deny a motion,” but as always, the “focus of the inquiry is upon  
7 the moving party’s reasons for seeking modification.” *Johnson v. Mammoth*  
8 *Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). “If that party was not diligent,  
9 the inquiry should end.” *Id.*

10 The Initial Standing Order issued in this case sets forth specific requirements  
11 for an extension that are consistent with the foregoing case law, including that a  
12 request for an extension “must be supported by a sufficient factual basis that  
13 demonstrates good cause why the change in the date is essential” and by “a detailed  
14 declaration of the grounds for the requested continuance or extension of time.” Dkt  
15 10 at 16-17 (emphasis in original). “Counsel shall avoid submitting requests for  
16 continuance or extension of time less than five (5) business days prior to the  
17 expiration of the scheduled date. A request to continue or extend dates or deadlines  
18 that have already expired constitutes a presumptive lack of due diligence.” *Id.*  
19 (emphasis in original). The Scheduling Order similarly provides that requests for an  
20 extension must be supported by a declaration providing “a detailed factual showing  
21 of good cause and due diligence demonstrating the necessity for the continuance and  
22 a description of the parties’ efforts, dating back to the filing of the complaint, of the  
23 steps they have taken to advance the litigation. This detailed showing must  
24 demonstrate that the work still to be performed reasonably could not have been  
25 accomplished within the applicable deadlines.” Dkt. 42 at 21.

26 Both Orders are clear that failure to comply will result in an extension being  
27 denied outright. Dkt. 10 at 17 (“Failure to comply with the Local Rules and this  
28 Order will result in rejection of the request without further notice to the parties.”);

1 Dkt. 42 at 21 (“Without such compelling factual support and showing of due  
2 diligence, requests to continue dates set by the court may be dismissed.”).

3 **II. Plaintiff’s Motion Violates the Court’s Orders and the Local Rules.**

4 Despite having its Motion stricken *twice* for failure to comply with the Local  
5 Rules and the Court’s Orders, Plaintiff’s Motion remains deficient, and for many of  
6 the same reasons.

7 *First*, Plaintiff failed to submit a declaration to support the Motion or to  
8 provide a recitation of its diligence as required by the Initial Standing Order and the  
9 Scheduling Order. Dkt 10 at 16-17; Dkt. 42 at 21 (both requiring, *inter alia*, a  
10 “detailed declaration” to demonstrate good cause for an extension). Plaintiff was  
11 clearly aware of this requirement, as shown by its apology and attempt to correct this  
12 violation in its Reply for the Second Motion. Dkt. 58 at 7. Yet, Plaintiff made no  
13 attempt to comply, even with its third bite at the apple.

14 *Second*, Plaintiff filed its Motion the day discovery closed, again failing to  
15 adhere to the Initial Standing Order’s requirement that “Counsel shall avoid  
16 submitting requests for continuance or extension of time less than five (5) business  
17 days prior to the expiration of the scheduled date.” Dkt. 10 at 17 (emphasis in  
18 original).

19 A request for an extension that fails “to comply with the Local Rules and this  
20 Order will result in rejection of the request without further notice to the parties.” Dkt.  
21 10 at 17. Plaintiff’s failure to comply with the Court’s Orders is particularly  
22 egregious here considering this is its third attempt with this Motion and Magistrate  
23 Judge Rocconi specifically referred Plaintiff “to the court’s Initial Standing Order . . .  
24 set by Honorable Judge Aenlle-Rocha” when striking a prior version of this Motion  
25 for failure to comply. Dkt. 54.

26 For these reasons alone, the Court should deny Plaintiff’s Motion for its  
27 repeated failure to comply with the Court’s clear Orders.

**III. Plaintiff Has Not Established Good Cause for the Extension.**

The Court should also deny Plaintiff's motion because Plaintiff has failed to act diligently from the outset of this litigation and failed to show why the discovery it belatedly seeks to conduct could not have reasonably been completed on the schedule set by the Court.

**A. Plaintiff Has Not Been Diligent.**

As discussed above, Plaintiff wholly failed to submit a declaration to show its due diligence or "a description of the parties' efforts, dating back to the filing of the complaint, of the steps they have taken to advance the litigation" as required by the Court's Orders. Dkt. 10 at 16-17; Dkt. 42 at 21-22. The Court should deny Plaintiff's Motion for this reason alone. *Brooke*, 2022 U.S. Dist. LEXIS 236510, at \*6 (denying request for extension where the moving party "does not provide any facts regarding its discovery efforts").

In any event, Plaintiff has known since October 23, 2024 that the Fact Discovery Cut-Off in this case is May 9, 2025. Dkt. 42 at 4. Yet, Plaintiff failed to serve any discovery requests on Defendant until April 15, 2025, less than 30 days before the close of discovery. *Keyes Decl.* ¶ 3. And Plaintiff never served any notices of deposition on Defendant during discovery. *Id.* ¶ 5. This is the antithesis of diligence in discovery. *See O'Connor v. City of El Segundo*, No. CV 20-311-DMG (PLAx), 2020 U.S. Dist. LEXIS 241074, at \*5 (C.D. Cal. Dec. 18, 2020) (finding lack of diligence "fatal" where Plaintiff served "his first discovery requests . . . eight months after the action was initiated . . . and only one month before the original discovery cut-off").

Finally, Plaintiff filed this Motion on the last day of discovery and noticed it for a hearing *after* the close of discovery. Dkt. 61. As a result, granting the Motion would require reopening discovery and extending an already expired fact discovery deadline. This "request to continue or extend dates or deadlines that have already



1 expired constitutes a presumptive lack of due diligence.” Dkt. 10 at 17; *Access*  
2 *Vapor*, 2021 U.S. Dist. LEXIS 250441, at \*4-5 (applying the presumptive lack of due  
3 diligence to a motion to extend discovery that was heard after the close of discovery);  
4 *O'Connor*, 2020 U.S. Dist. LEXIS 241074, at \*5 (a “belated attempt to extend the  
5 *expired* deadline . . . is on its face a lack of due diligence, especially given that the  
6 Court requires parties to request continuances at least five court days *before* the  
7 deadline”) (emphasis in original).

8 In sum, Plaintiff utterly failed to act diligently in discovery. That is dispositive  
9 of its Motion. *Access Vapor*, 2021 U.S. Dist. LEXIS 250441, at \*5-6 (“Plaintiff is  
10 ultimately responsible for the prosecution of its case and has failed to demonstrate  
11 the necessary diligence for the court to grant an extension of deadlines.”); *Brooke*,  
12 2022 U.S. Dist. LEXIS 236510 at \*6-7 (“Defendant fails to demonstrate diligence or  
13 good cause for the court to continue pretrial dates and reopen discovery. The court,  
14 therefore, DENIES Defendant’s Application in its entirety.”).

15 **B. Plaintiff Failed to Show That Remaining Work Could Not Have**  
16 **Reasonably Been Completed On the Court’s Schedule.**

17 Because Plaintiff has not shown it has been diligent, the Court need not  
18 consider other factors that may justify an extension. *Johnson*, 975 F.2d at 609. Still,  
19 Plaintiff has not identified any remaining work that could not have been completed  
20 sooner, had Plaintiff been reasonably diligent. The only remaining work that Plaintiff  
21 identifies in the Motion are depositions. Dkt. 61 ¶ 10. However, Plaintiff has not  
22 noticed any depositions. *Id.* ¶ 5. While Plaintiff vaguely claims that “scheduling  
23 conflicts” are now preventing depositions, it fails to provide any explanation of what  
24 those conflicts are, why they have suddenly appeared, or why Plaintiff was unable to  
25 meet discovery deadlines that had been established for months. *See id.* ¶ 10.

26 The only reason Plaintiff provides for its delay is that Defendant filed its  
27 Answer on April 29, 2025, and that Plaintiff purportedly needed to wait for this  
28



1 before it could engage in discovery at all. Dkt. 61 ¶¶ 8-9. This easily fails. Initially,  
2 Defendant's Answer was timely filed.

3 Moreover, as shown by the Interrogatories submitted herewith, the discovery  
4 that Plaintiff seeks relates to broad topics relating to its copyright claims, such as  
5 Defendant's copyright policies and procedures, Defendant's handling of takedown  
6 notices submitted by Plaintiff, and Defendant's financial information. Keyes Decl.  
7 Exh. A. Plaintiff has been on notice of the factual disputes in this case for several  
8 months and its need to conduct discovery by virtue of Defendant's motion to dismiss,  
9 the Rule 26(f) conference, and other briefing in this case. *See* Dkt. 24; Dkt. 38  
10 (Plaintiff stating in the Rule 26(f) Report that it will need "at least one deposition"  
11 and discovery on several issues, including "Defendant's communications regarding  
12 the receipt of Plaintiff's takedown notices" and "Defendant's policy/procedures in  
13 removing copyrighted work").

14 Further, as Plaintiff represented to this Court in a Motion to Stay, the claims  
15 in this case are nearly identical to the claims at issue in the concurrent case *Waterman*  
16 *v. TikTok, Inc.*, No. 2:24-cv-04802-SRM-AJR. *See* Dkt. 33 at 2. As Plaintiff itself  
17 has put it, the two cases "both assert claims of copyright infringement against TikTok  
18 with respect to the same alleged conduct," namely third parties posting content to  
19 TikTok, and Defendant's handling of Plaintiffs' takedown notices. *Id.* The  
20 similarities between the cases are even more apparent considering that Ms. Waterman  
21 and Mr. Grecco are husband and wife and Plaintiff's counsel, Lauren M. Hausman  
22 of CopyCat Legal PLLC, represents the Plaintiffs in both cases.<sup>2</sup> Dkt. 19 at 2-3.  
23 Defendant filed its Answer in the *Waterman* case on December 18, 2024, asserting  
24 substantially the same affirmative defenses that it asserts in this case. Keyes Decl.  
25 ¶ 8. This alone defeats Plaintiff's claim that it was previously unaware of  
26 Defendant's affirmative defenses prior to the Answer in this case.

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27 <sup>2</sup> Notably, Plaintiff's counsel did not move to extend deadlines in *Waterman*.  
28 Keyes Decl. ¶ 9.

1 Finally, it bears emphasis that Plaintiff is the epitome of a sophisticated serial  
2 litigator. *See Michael Grecco Prods. Inc.*, 2019 U.S. Dist. LEXIS 235754, at \*7  
3 (discussing Plaintiff’s litigation history); *Michael Grecco Prods. Inc. v. RADesigns,*  
4 *Inc.*, 112 F4th 144, 148-149 (2d Cir. 2024) (noting Plaintiff has “filed numerous  
5 cases” and Plaintiff is “an experienced litigator in identifying and bringing causes of  
6 action for unauthorized use of Grecco’s copyrighted works”). Plaintiff intimately  
7 knows what defenses and other issues arise in the copyright lawsuits that Plaintiff  
8 files by the dozen, and has not pointed to anything materially different about this  
9 case. This, too, makes Plaintiff’s excuse of needing to wait for the Answer untenable.

10 In sum, Plaintiff comes nowhere close to showing that it could not have  
11 completed discovery on schedule. The Motion should be denied for this reason too.

12 **C. Plaintiff’s Arguments Presented in Its Prior Reply Are Insufficient.**

13 The Court should not consider the arguments that Plaintiff made in its Reply  
14 to the Second Motion because they are not included in the present Motion and they  
15 were improperly raised previously. *Zamani v. Carnes*, 491 F.3d 990, 997 (9th Cir.  
16 2007) (“The district court need not consider arguments raised for the first time in a  
17 reply brief.”). Still, Defendant briefly addresses those arguments here in case  
18 Plaintiff (improperly) attempts to makes similar arguments in its Reply here.

19 Plaintiff argued that it has been diligent because it attempted to file the First  
20 Motion on May 5. Dkt. 58 at 3-4. Even if Plaintiff followed the Local Rules and  
21 properly noticed the First Motion for a hearing, that hearing would have fallen after  
22 the close of discovery, leaving Plaintiff in the same position it is in now. *See* L.R. 6-  
23 1. And Plaintiff’s First Motion was in violation of the Court’s Initial Standing Order.  
24 Initial Standing Order, Dkt. 10 at 17 (prohibiting a motion to extend filed less than  
25 five days before the deadline). Further, that Defendant was aware of Plaintiff’s  
26 motion to extend a few days prior to the present Motion is irrelevant and has no  
27 bearing on the fact that Plaintiff had not been diligent throughout the discovery  
28 period.

1 Plaintiff next contends that “the disposition of this case was unknown” and  
2 this case was “in a holding pattern” while the Court considered Defendant’s Motion  
3 to Dismiss. Dkt. 58 at 4. Plaintiff claims it had to wait until the pleadings were final  
4 to “execute *all* discovery,” but provides no reason why it failed to conduct *any*  
5 discovery until days before the discovery cutoff. *Id.* at 5. If Plaintiff was concerned  
6 about needing more time while the Motion to Dismiss was pending, it could and  
7 should have sought an extension of the discovery period sooner. *See Dimitre v. Cal.*  
8 *State Univ. Emples. Union*, No. 2:17-CV-01698-KJM-DB, 2019 U.S. Dist. LEXIS  
9 164591, at \*6 (E.D. Cal. Sep. 24, 2019) (denying motion to reopen discovery where  
10 the need to do was “foreseeable” and “plaintiff provides no reason why he could not  
11 move to extend the discovery deadline before it expired”).

12 Plaintiff next argued that it would be prejudiced absent an extension and that  
13 Defendant will not be prejudiced. Dkt. 58 at 8-10. Plaintiff’s argument for its own  
14 prejudice is that “Plaintiff has been very clear since the 26(f) conference that it would  
15 need at least one deposition” and that it will be unable to conduct that deposition  
16 absent an extension. Dkt. 58 at 9. But the fact that Plaintiff has long known it needs  
17 a deposition shows a lack of diligence in failing to request one during discovery, not  
18 prejudice now. *United States ex rel. Vatan v. QTC Med. Servs.*, No. CV 14-8961 PA  
19 (SSx), 2019 U.S. Dist. LEXIS 63959, at \*6 (C.D. Cal. Jan. 4, 2019) (Plaintiff’s  
20 arguments “about additional discovery that [she] requires or would pursue” if the  
21 schedule were amended “suggest only [Plaintiff’s] lack of diligence”). Any prejudice  
22 to Plaintiff is self-inflicted.

23 As to Defendant’s prejudice, if an extension is granted, Defendant would have  
24 to engage in costly discovery that Plaintiff failed to seek earlier. *De Paz v. Wells*  
25 *Fargo Bank, N.A.*, No. CV 18-9779 PSG (PJWx), 2020 U.S. Dist. LEXIS 88118, at  
26 \*9 (C.D. Cal. Feb. 18, 2020) (finding prejudice to Defendant where “Defendant  
27 opposes the request” and re-opening discovery would entail “costly representative  
28 discovery that Plaintiff failed to timely pursue”). An extension would also prolong

litigation and delay resolution of this case, imposing still more costs and business disruption on Defendant. *Dimitre*, 2019 U.S. Dist. LEXIS 164591, at \*5 (“Defendant will suffer at least some prejudice due to the delay that would be caused by reopening discovery”).

### **CONCLUSION**

Plaintiff’s third Motion for an extension remains legally and procedurally deficient for the numerous reasons explained above. The Court should deny Plaintiff’s Motion and order that this case proceed on the schedule set forth in the Scheduling Order.

Dated: May 16, 2025

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 16, 2025, a true and correct copy of the foregoing was filed electronically using the Court's CM/ECF system, which shall send notification of such filing to all counsel of record. Any counsel of record who has not consented to electronic service through the Court's CM/ECF system will be served by electronic mail.

/s/ J. Michael Keyes  
J. Michael Keyes, SBN 262281